

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 800
OFFERED BY MR. CASTLE

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Education Flexibility
3 Partnership Act of 1999”.

4 SEC. 2. FINDINGS.

5 Congress makes the following findings:

6 (1) States differ substantially in demographics,
7 in school governance, and in school finance and
8 funding. The administrative and funding mecha-
9 nisms that help schools in 1 State improve may not
10 prove successful in other States.

11 (2) Although the Elementary and Secondary
12 Education Act of 1965 and other Federal education
13 statutes afford flexibility to State and local edu-
14 cational agencies in implementing Federal programs,
15 certain requirements of Federal education statutes
16 or regulations may impede local efforts to reform
17 and improve education.

18 (3) By granting waivers of certain statutory
19 and regulatory requirements, the Federal Govern-
20 ment can remove impediments for local educational

1 agencies in implementing educational reforms and
2 raising the achievement levels of all children.

3 (4) State educational agencies are closer to
4 local school systems, implement statewide edu-
5 cational reforms with both Federal and State funds,
6 and are responsible for maintaining accountability
7 for local activities consistent with State standards
8 and assessment systems. Therefore, State edu-
9 cational agencies are often in the best position to
10 align waivers of Federal and State requirements
11 with State and local initiatives.

12 (5) The Education Flexibility Partnership Dem-
13 onstration Act allows State educational agencies the
14 flexibility to waive certain Federal requirements,
15 along with related State requirements, but allows
16 only 12 States to qualify for such waivers.

17 (6) Expansion of waiver authority will allow for
18 the waiver of statutory and regulatory requirements
19 that impede implementation of State and local edu-
20 cational improvement plans, or that unnecessarily
21 burden program administration, while maintaining
22 the intent and purposes of affected programs, such
23 as the important focus on improving math and
24 science performance under title II of the Elementary
25 and Secondary Education Act of 1965, (Dwight D.

1 Eisenhower Professional Development Program),
2 and maintaining such fundamental requirements as
3 those relating to civil rights, educational equity, and
4 accountability.

5 (7) To achieve the State goals for the education
6 of children in the State, the focus must be on results
7 in raising the achievement of all students, not proc-
8 ess.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) ATTENDANCE AREA.—The term “attend-
12 ance area” has the meaning given the term “school
13 attendance area” in section 1113(a)(2)(A) of the El-
14 ementary and Secondary Education Act of 1965.

15 (2) ED-FLEX PARTNERSHIP STATE.—The term
16 “Ed-Flex Partnership State” means an eligible State
17 designated by the Secretary under section
18 4(a)(1)(B).

19 (3) LOCAL EDUCATIONAL AGENCY; STATE EDU-
20 CATIONAL AGENCY.—The terms “local educational
21 agency” and “State educational agency” have the
22 meaning given such terms in section 14101 of the
23 Elementary and Secondary Education Act of 1965.

24 (4) SECRETARY.—The term “Secretary” means
25 the Secretary of Education.

1 (5) STATE.—The term “State” means each of
2 the 50 States, the District of Columbia, the Com-
3 monwealth of Puerto Rico, and each of the outlying
4 areas.

5 **SEC. 4. EDUCATION FLEXIBILITY PARTNERSHIP.**

6 (a) EDUCATION FLEXIBILITY PROGRAM.—

7 (1) PROGRAM AUTHORIZED.—

8 (A) IN GENERAL.—The Secretary may
9 carry out an education flexibility program under
10 which the Secretary authorizes a State edu-
11 cational agency that serves an eligible State to
12 waive statutory or regulatory requirements ap-
13 plicable to 1 or more programs or Acts de-
14 scribed in subsection (b), other than require-
15 ments described in subsection (c), for the State
16 educational agency or any local educational
17 agency or school within the State.

18 (B) DESIGNATION.—The Secretary shall
19 designate each eligible State participating in the
20 program described in subparagraph (A) to be
21 an Ed-Flex Partnership State.

22 (2) ELIGIBLE STATE.—For the purpose of this
23 subsection the term “eligible State” means a State
24 that—

25 (A)(i) has—

1 (I) developed and implemented the
2 challenging State content standards, chal-
3 lenging State student performance stand-
4 ards, and aligned assessments described in
5 section 1111(b) of the Elementary and
6 Secondary Education Act of 1965, and for
7 which local educational agencies in the
8 State are producing the individual school
9 performance profiles required by section
10 1116(a) of such Act; or

11 (II) developed and implemented con-
12 tent standards and interim assessments
13 and made substantial progress, as deter-
14 mined by the Secretary, toward developing
15 and implementing performance standards
16 and final aligned assessments, and toward
17 having local educational agencies in the
18 State produce the profiles, described in
19 subclause (I); and

20 (ii) holds local educational agencies and
21 schools accountable for meeting the educational
22 goals described in the local applications submit-
23 ted under paragraph (4); and

24 (B) waives State statutory or regulatory
25 requirements relating to education while holding

1 local educational agencies or schools within the
2 State that are affected by such waivers account-
3 able for the performance of the students who
4 are affected by such waivers.

5 (3) STATE APPLICATION.—

6 (A) IN GENERAL.—Each State educational
7 agency desiring to participate in the education
8 flexibility program under this section shall sub-
9 mit an application to the Secretary at such
10 time, in such manner, and containing such in-
11 formation as the Secretary may reasonably re-
12 quire. Each such application shall demonstrate
13 that the eligible State has adopted an education
14 flexibility plan for the State that includes—

15 (i) a description of the process the
16 State educational agency will use to evalu-
17 ate applications from local educational
18 agencies or schools requesting waivers of—

19 (I) Federal statutory or regu-
20 latory requirements as described in
21 paragraph (1)(A); and

22 (II) State statutory or regulatory
23 requirements relating to education;
24 and

1 (ii) a detailed description of the State
2 statutory and regulatory requirements re-
3 lating to education that the State edu-
4 cational agency will waive;

5 (iii) a description of specific edu-
6 cational objectives the State intends to
7 meet under such a plan; and

8 (iv) a description of the process by
9 which the State will measure the progress
10 of local educational agencies in meeting
11 specific goals described in subsection
12 (a)(4)(A)(iii).

13 (B) APPROVAL AND CONSIDERATIONS.—
14 The Secretary may approve an application de-
15 scribed in subparagraph (A) only if the Sec-
16 retary determines that such application dem-
17 onstrates substantial promise of assisting the
18 State educational agency and affected local edu-
19 cational agencies and schools within such State
20 in carrying out comprehensive educational re-
21 form, after considering—

22 (i) the comprehensiveness and quality
23 of the education flexibility plan described
24 in subparagraph (A);

1 (ii) the ability of such plan to ensure
2 accountability for the activities and goals
3 described in such plan;

4 (iii) the degree to which the State's
5 objectives described in subparagraph
6 (A)(iii)—

7 (I) are specific and measurable;
8 and

9 (II) measure the performance of
10 schools or local educational agencies
11 and specific groups of students af-
12 fected by waivers;

13 (iv) the significance of the State stat-
14 utory or regulatory requirements relating
15 to education that will be waived; and

16 (v) the quality of the State edu-
17 cational agency's process for approving ap-
18 plications for waivers of Federal statutory
19 or regulatory requirements as described in
20 paragraph (1)(A) and for monitoring and
21 evaluating the results of such waivers.

22 (4) LOCAL APPLICATION.—

23 (A) IN GENERAL.—Each local educational
24 agency or school requesting a waiver of a Fed-
25 eral statutory or regulatory requirement as de-

scribed in paragraph (1)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and the statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement;

(iii) describe, for each school year, specific, measurable, educational goals for each local educational agency, school, or group of students affected by the proposed waiver; and

(iv) explain why the waiver will assist the local educational agency or school in meeting such goals.

(B) EVALUATION OF APPLICATIONS.—A State educational agency shall evaluate an application submitted under subparagraph (A) in

1 accordance with the State's education flexibility
2 plan described in paragraph (3)(A).

3 (C) APPROVAL.—A State educational
4 agency shall not approve an application for a
5 waiver under this paragraph unless—

6 (i) the local educational agency or
7 school requesting such waiver has devel-
8 oped a local reform plan that is applicable
9 to such agency or school, respectively; and

10 (ii) the waiver of Federal statutory or
11 regulatory requirements as described in
12 paragraph (1)(A) will assist the local edu-
13 cational agency or school in meeting its
14 educational goals.

15 (5) MONITORING.—

16 (A) IN GENERAL.—Each State educational
17 agency participating in the program under this
18 section shall annually monitor the activities of
19 local educational agencies and schools receiving
20 waivers under this section and shall submit an
21 annual report regarding such monitoring to the
22 Secretary.

23 (B) PERFORMANCE DATA.—Not later than
24 2 years after a State is designated as an Ed-
25 Flex Partnership State each such State shall

1 include performance data demonstrating the de-
2 gree to which progress has been made toward
3 meeting the objectives outlined in paragraph
4 (3)(A)(iii).

5 (6) DURATION OF FEDERAL WAIVERS.—

6 (A) IN GENERAL.—The Secretary shall not
7 approve the application of a State educational
8 agency under paragraph (3) for a period ex-
9 ceeding 5 years, except that the Secretary may
10 extend such period if the Secretary determines
11 that such agency's authority to grant waivers
12 has been effective in enabling such State or af-
13 fected local educational agencies or schools to
14 carry out their local reform plans.

15 (B) PERFORMANCE REVIEW.—Three years
16 after a State is designated an Ed-Flex Partner-
17 ship State, the Secretary shall—

18 (i) review the performance of any
19 State educational agency in such State
20 that grants waivers of Federal statutory or
21 regulatory requirements as described in
22 paragraph (1)(A); and

23 (ii) terminate such agency's authority
24 to grant such waivers if the Secretary de-
25 termines, after notice and opportunity for

1 hearing, that such agency has failed to
2 make measurable progress in meeting the
3 objectives outlined in paragraph (3)(A)(iii)
4 to justify continuation of such authority.

5 (7) AUTHORITY TO ISSUE WAIVERS.—Notwith-
6 standing any other provision of law, the Secretary is
7 authorized to carry out the education flexibility pro-
8 gram under this subsection for each of the fiscal
9 years 1999 through 2004.

10 (b) INCLUDED PROGRAMS.—The statutory or regu-
11 latory requirements referred to in subsection (a)(1)(A) are
12 any such requirements under the following programs or
13 Acts:

14 (1) Title I of the Elementary and Secondary
15 Education Act of 1965.

16 (2) Part B of title II of the Elementary and
17 Secondary Education Act of 1965.

18 (3) Subpart 2 of part A of title III of the Ele-
19 mentary and Secondary Education Act of 1965
20 (other than section 3136 of such Act).

21 (4) Title IV of the Elementary and Secondary
22 Education Act of 1965.

23 (5) Title VI of the Elementary and Secondary
24 Education Act of 1965.

1 (6) Part C of title VII of the Elementary and
2 Secondary Education Act of 1965.

3 (7) The Carl D. Perkins Vocational and Tech-
4 nical Education Act of 1998.

5 (c) WAIVERS NOT AUTHORIZED.—The Secretary
6 may not waive any statutory or regulatory requirement of
7 the programs or Acts authorized to be waived under sub-
8 section (a)(1)(A)—

9 (1) relating to—

10 (A) maintenance of effort;

11 (B) comparability of services;

12 (C) the equitable participation of students
13 and professional staff in private schools;

14 (D) parental participation and involve-
15 ment;

16 (E) the distribution of funds to States or
17 to local educational agencies;

18 (F) the selection of schools to participate
19 in part A of title I of the Elementary and Sec-
20 ondary Education Act of 1965, except that a
21 State educational agency may grant waivers to
22 allow schools to participate in part A of title I
23 of such Act if the percentage of children from
24 low-income families in the attendance area of
25 such school or who actually attend such school

1 is within 5 percentage points of the lowest per-
2 centage of such children for any school in the
3 local educational agency that meets the require-
4 ments of section 1113 of the Act.

5 (G) use of Federal funds to supplement,
6 not supplant, non-Federal funds; and

7 (H) applicable civil rights requirements;
8 and

9 (2) unless the underlying purposes of the statu-
10 tory requirements of each program or Act for which
11 a waiver is granted continue to be met to the satis-
12 faction of the Secretary.

13 (d) APPLICATION.—

14 (1) IN GENERAL.—Except as provided in para-
15 graph (2), this Act shall not apply to a State edu-
16 cational agency that has been granted waiver au-
17 thority under the following provisions of law:

18 (A) Section 311(e) of the Goals 2000:
19 Educate America Act.

20 (B) The proviso referring to such section
21 311(e) under the heading “**EDUCATION RE-**
22 **FORM**” in the Department of Education Ap-
23 propriations Act, 1996 (Public Law 104–134;
24 110 Stat. 1321–229).

1 (2) EXCEPTION.—If a State educational agency
2 that has been granted waiver authority, pursuant to
3 paragraph (1)(A) or (B), applies to the Secretary to
4 extend such authority, the provisions of this Act, ex-
5 cept subsection (e)(1), shall apply to such agency.

6 (3) EFFECTIVE DATE.—This Act shall apply to
7 State educational agencies described in paragraph
8 (2) beginning on the date that such extension is
9 granted.

10 (e) ACCOUNTABILITY.—

11 (1) EVALUATION FOR ED-FLEX PARTNERSHIP
12 STATES.—In deciding whether to extend a request
13 for a State educational agency's authority to issue
14 waivers under this section, the Secretary shall review
15 the progress of the State educational agency to de-
16 termine if such agency—

17 (A) makes measurable progress toward
18 achieving the objectives described in the appli-
19 cation submitted pursuant to subsection
20 (a)(3)(A)(iii); and

21 (B) demonstrates that local educational
22 agencies or schools affected by such waiver or
23 authority have made measurable progress to-
24 ward achieving the desired results described in

1 the application submitted pursuant to sub-
2 section (a)(4)(A)(iii).

3 (2) EVALUATION FOR EXISTING ED-FLEX PRO-
4 GRAMS.—In deciding whether to extend a request for
5 a State educational agency described in subsection
6 (d)(2) to issue waivers under this section, the Sec-
7 retary shall review the progress of the agency in
8 achieving the objectives set forth in the application
9 submitted pursuant to subsection (a)(2)(B)(iii) of
10 the Goals 2000: Educate America Act.

11 (f) PUBLICATION.—A notice of the Secretary's deci-
12 sion to authorize State educational agencies to issue waiv-
13 ers under this section shall be published in the Federal
14 Register and the Secretary shall provide for the dissemina-
15 tion of such notice to State educational agencies, inter-
16 ested parties, including educators, parents, students, advo-
17 cacy and civil rights organizations, other interested par-
18 ties, and the public.